

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,) Case No. 1:17-cv-02635
)
 Plaintiff,) Judge Christopher A. Boyko
)
 vs.)
) **AMENDED EX. D TO TRIAL BRIEF—**
 2K GAMES, INC. and TAKE-TWO) **PLAINTIFF'S PROPOSED SPECIAL**
 INTERACTIVE SOFTWARE, INC.,) **INTERROGATORIES AND VERDICT**
) **FORMS**
 Defendants.)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,)	Case No. 1:17-cv-02635
)	
Plaintiff,)	Judge Christopher A. Boyko
)	
vs.)	
)	<u>INTERROGATORY NO. 1</u>
2K GAMES, INC. and TAKE-TWO)	
INTERACTIVE SOFTWARE, INC.,)	
)	
Defendants.)	

IN CONSIDERING THE PURPOSE AND CHARACTER OF DEFENDANTS' USE OF THE
ASSERTED TATTOOS, DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE
THAT DEFENDANTS' COPYING WAS "TRANSFOMRATIVE"?

Yes

No

If you answered "Yes" to Interrogatory No. 1, proceed to Interrogatory No. 2.

If you answered "No" to Interrogatory No. 1, proceed to Interrogatory No. 3.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,) Case No. 1:17-cv-02635
)
 Plaintiff,) Judge Christopher A. Boyko
)
 vs.)
) **INTERROGATORY NO. 2**
 2K GAMES, INC. and TAKE-TWO)
 INTERACTIVE SOFTWARE, INC.,)
)
 Defendants.)

A. IF YOU ANSWERED “YES” ABOVE, WHICH DO YOU FIND, BY A PREPONDERANCE OF THE EVIDENCE, IS GREATER: DEFENDANTS’ COMMERCIAL PURPOSE OR DEFENDANTS’ TRANSFORMATIVE USE?

Commercial Purpose

Transformative Use

Proceed to Interrogatory No. 3.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,) Case No. 1:17-cv-02635
)
 Plaintiff,) Judge Christopher A. Boyko
)
 vs.)
) **INTERROGATORY NO. 3**
 2K GAMES, INC. and TAKE-TWO)
 INTERACTIVE SOFTWARE, INC.,)
)
 Defendants.)

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT THERE IS AN EXISTING OR POTENTIAL MARKET FOR MR. HAYDEN TO LICENSE HIS RIGHTS IN THE ASSERTED TATTOOS?

Yes

No

Proceed to Interrogatory No. 4.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,) Case No. 1:17-cv-02635
)
 Plaintiff,) Judge Christopher A. Boyko
)
 vs.)
) **INTERROGATORY NO. 4**
 2K GAMES, INC. and TAKE-TWO)
 INTERACTIVE SOFTWARE, INC.,)
)
 Defendants.)

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT DEFENDANTS' COPYING AND DISTRIBUTION OF COPIES OF THE ASSERTED TATTOOS WITHOUT MR. HAYDEN'S PERMISSION HARMS THE EXISTING OR POTENTIAL MARKET FOR HIM TO LICENSE HIS RIGHTS IN THE ASSERTED TATTOOS OR OTHERWISE HARMS THE THEIR VALUE?

Yes

No

Proceed to Interrogatory No. 5.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,) Case No. 1:17-cv-02635
)
 Plaintiff,) Judge Christopher A. Boyko
)
 vs.)
) **INTERROGATORY NO. 5**
 2K GAMES, INC. and TAKE-TWO)
 INTERACTIVE SOFTWARE, INC.,)
)
 Defendants.)

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT DEFENDANTS' COPYING OF THE TATTOOS IN EACH ACCUSED GAME WERE SEPARATE ACTS OF INFRINGEMENT?

Yes

No

Proceed to General Verdict Form.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

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EASTERN DIVISION**

JAMES HAYDEN,) Case No. 1:17-cv-02635
)
 Plaintiff,) Judge Christopher A. Boyko
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 vs.)
)
 2K GAMES, INC. and TAKE-TWO)
 INTERACTIVE SOFTWARE, INC.,)
)
 Defendants.)

GENERAL JURY VERDICT FORM

1. Do you find that Defendants have proven by a preponderance of the evidence that their copying of the Asserted Tattoos is *de minimis*?

No _____ (for Plaintiff)

Yes _____ (for Defendant)

2. Do you find that Defendants have proven by a preponderance of the evidence that their copying was authorized by Plaintiff in the form of an implied license authorizing Defendants to copy, use and distribute the copyrighted Tattoos in video games?

No _____ (for Plaintiff)

Yes _____ (for Defendant)

3. Do you find that Defendants have proven by clear and unequivocal evidence that Plaintiff waived his right to enforce his copyrights?

No _____ (for Plaintiff)

Yes _____ (for Defendant)

If your answer to any of questions 1–3 is “yes,” then do not answer any additional questions and proceed to the end of the verdict form.

4. Defendants Profits Damages: Identify the amount of Defendants' profits that are attributable to Defendants' infringement of Plaintiff's copyrights.

\$ _____

You have reached the end of the General Verdict Form. Each juror should place his or her signature on the lines below to attest that the foregoing accurately reflects the jury's decision.

Foreperson